



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/838,548	04/09/97	GINES	D PC9743ALP

PETER C RICHARDSON
PFIZER INC
235 EAST 42ND STREET
NEW YORK NY 10017-5755

33M1/0224

EXAMINER

MANTIS, E

ART UNIT

PAPER NUMBER

3305

DATE MAILED:

02/24/98

#3

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/838,548

Applicant(s)
Gines

Examiner
Eleni Mantis Mercader

Group Art Unit
3305



☒ Responsive to communication(s) filed on Jan 15, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-15 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3305

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the measurement circuit" in line 8. There is insufficient antecedent basis for this limitation in the claim. Examiner suggests replacement of the term with --the impedance measurement circuit--.

Claims 2-4 and 7, are vague and indefinite in that it is unclear as to what structures are further limited.

Claim 8, is vague and indefinite in that "the output power" is not positively recited in the body of the claim.

Claims 1-15 recite "a measure". Examiner suggests replacement of the term with "a measurement" to be consistent with the terminology as it pertains to the description of Figure 1.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

Art Unit: 3305

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Yates.

Regarding claims 1, 9 and 15, Yates discloses an electrosurgical generator for applying out put power to a load having an electrical impedance, the output power having an RMS value, the electrosurgical generator comprising:

an impedance measurement circuit electrically connected to the load for producing a measure indicative of the electrical impedance (col. 6, lines 36-59);

an RF output stage connected to the load for applying output power to the load, the RF output stage having an input for adjusting the RMS value (col. 6, lines 15-32, col. 9, lines 63-67 and col. 10, lines 1-11);

a controller electrically connected to the measurement circuit and electrically connected to the input, wherein the controller has means for inducing multiple oscillations of the electrical impedance by adjusting the input in response to the measure (col. 9, lines 13-38 and col. 6, lines 22-29).

Regarding claims 3-7 and 11-15, Yates teaches the use of a power controller which may selectively switch off the power supplied to the tissue under a number of conditions including: switching off the power when the measured impedance value exceeds the threshold impedance

Art Unit: 3305

value, when an open or short circuit condition exists or when the voltage or current is supplied for a period of time exceeding the maximum (col. 3, lines 9-15).

Regarding claims 2, 10 and 15, it is inherent that the multiple oscillations of the impedance would occur at a frequency range that coagulation is accomplished.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Friedman discloses an electrosurgery instrument.

Goble et al. disclose an apparatus for radio frequency bipolar electrosurgery.

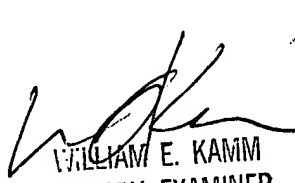
Oosten discloses an electrosurgical generator.

Schneiderman discloses a constant output electrosurgical unit.

Art Unit: 3305

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is (703) 308-0899. The examiner's supervisor, Mr. Marvin Lateef, can be reached on (703) 308-3256.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. The fax phone number for this group is (703) 305-3590.


WILLIAM E. KAMM
PRIMARY EXAMINER
ART UNIT 335
175098



EMM
February 15, 1998.